



Appeal Decisions

Site visit made on 27 January 2026

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 February 2026

Appeal A Ref: APP/A5270/C/24/3337390

77 Castle Road, Northolt UB5 4SF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Zyber Construction Limited against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 22 December 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey rear extension, a hip to gable and rear dormer roof extension and the material change of use of the property to multiple self-contained flats.
 - The requirements of the notice are: A. Cease the use of the property as self-contained flats; B. Remove the kitchens from each of [the] flats including all cooking equipment, cupboards, sinks and surfaces; C. Remove the bathrooms from each of the flats; D. Remove the internal partitions that facilitates (*sic*) the subdivision of the property into self-contained flats and; E. Demolish the single storey rear extension; F. Remove the rear dormer roof extension; G. Remove all resulting materials, debris and rubbish from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Appeal B Ref: APP/A5270/C/24/3337451

77A Castle Road, Northolt UB5 4SF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Zyber Construction Limited against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 21 December 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an attached building with a single storey rear-extension and habitable roof space containing three self-contained flats.
 - The requirements of the notice are: 1) Demolish the attached building in its entirety; and 2) Remove all resulting materials, debris and rubbish from the land; or 3) Cease the use of the first and second floors as two self-contained flats; 4) Remove the kitchen from the second floor including all cooking equipment, cupboards, sinks and surfaces; 5) Alter the rear dormer roof extension and layout of the first floor and second floor to accord with the approved plans (Drawing No: 104-305 (Proposed Elevations as revised), 104-306 Rev A (Proposed Plan – Ground and First Floor), 104-307 (Proposed Plans – Loft and Roof) and 104-308 (Proposed Elevations)) and conditions that were granted under application reference 212670FUL for 'Construction of a two storey building, with habitable loft space, to accommodate two self-contained residential units, with associated refuse and cycle storage'. Copies of the approved plans are attached to the notice; and 6) Remove all resulting materials, debris and rubbish from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Appeal C Ref: APP/A5270/C/23/3334785
77 & 77A Castle Road, Northolt UB5 4SF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Zyber Construction Limited against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 9 November 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a separate self-contained dwelling at the rear.
 - The requirements of the notice are: a) Cease the use of the separate self-contained dwelling at the rear; b) Demolish the separate self-contained dwelling at the rear; and c) Remove all resulting debris and material from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

1. Appeal A-It is directed that the enforcement notice be varied by in paragraph 5 substituting 'three months' with 'six months' as the period for compliance. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.
2. Appeal B-It is directed that the enforcement notice be varied by in paragraph 5 substituting 'two self-contained flats' with 'more than one self-contained flat' in step 3 and substituting 'three months' with 'six months' as the period for compliance. Subject to the variations the appeal is dismissed and the enforcement notice is upheld.
3. Appeal C-The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

4. Paragraph 5, step 3 of the enforcement notice in Appeal B requires the use of the first and second floors of the building as two self-contained flats to cease. As the number of flats is specified in the allegation, it is not necessary to refer to a specific number of flats in the requirements. Doing so could also lead to uncertainty-for example whether the notice requires the cessation of any future unauthorised use of the first and second floors for a greater number of flats. Consequently, I shall exercise the power in s176(1) of the Act to vary the notice in step 3 to substitute the reference to two flats with use as more than one flat. There would be no injustice to the appellant or the Council in doing so.
5. There is no ground (a) appeal in Appeal A or Appeal B and the relevant fees have not been paid. Therefore, planning merits considerations cannot form any part of my deliberations in respect of those appeals.
6. My decision in Appeal C takes the revised National Planning Policy Framework, which came into force during the course of the appeal, into account.

Appeal A

Ground (f) appeal

7. The ground of appeal is that the requirements of the enforcement notice are excessive.
8. The appeal property contains a two-storey residential building with living accommodation arranged over three floor levels. The notice attacks the use of the property as multiple self-contained flats, along with the erection of extensions to the building including a rear dormer and a single storey rear extension.

9. An enforcement notice can have the purpose of remedying the breach of planning control by making development comply with the terms (including conditions and limitations) of any planning permission granted in respect of the land, by discontinuing any use of the land, or by restoring the land to its condition before the breach took place. Also, it can have the purpose of remedying any injury to amenity caused by the breach. The notice requirements include ceasing the use as self-contained flats, removing their kitchens and bathrooms and demolishing the rear dormer and single storey rear extension. Complying with all the requirements would result in the property being restored to its condition before the breach took place. Therefore, the purpose of the notice must be to remedy the breach, as is also evident from the final reason for its issue.
10. It is well-established that an enforcement notice can require the removal of works undertaken integral to and solely for the purpose of facilitating an unauthorised material change of use, even if such works on their own might not constitute development, or be permitted development, so that the land is restored to its condition before the change of use took place. There is no dispute that the kitchen and bathroom facilities were all installed as part and parcel of the change of use to flats and for no other purpose, following removal of the previous facilities.
11. Also, there is no firm evidence that the extensions were erected other than as part of a single building operation undertaken to convert the building to flats. The Lawful Development Certificate (LDC) issued in October 2020¹ and prior approval determination made in November that year² do not mean that the extensions were erected lawfully. 'Permitted development' rights under the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) at Article 3, Schedule 2, Part 1 do not apply to extensions which, as in this case, were erected as part of a material change of use from a dwelling to a different use.
12. Accordingly, varying the notice so that it did not require removal of the kitchen and bathroom facilities for the flats along with the demolition of the extensions would fail to remedy the breach, as the property would not be restored to its condition before the breach took place and the purpose of the notice would not be achieved. Besides, varying the steps to stop short of requiring removal of all the works which are integral to and part and parcel of the change of use to flats would attack the substance of the notice. Such an outcome is not within the scope of what can be achieved through a ground (f) appeal where, as in this instance, the purpose of the notice is to remedy the breach and there is no deemed planning application following a ground (a) appeal. The power to allow an appeal made on ground (f) does not extend to granting planning permission.
13. Use of the property as flats has ceased since the notice was issued. The appellant is not prevented from installing kitchen and bathroom facilities in conjunction with the lawful use as a single dwelling once the notice is complied with. The notice cannot remove lawful rights to undertake works which fall outside the definition of development in s55(1) of the Act.
14. Consequently, the lesser steps suggested are not an obvious alternative to the notice requirements. No other alternative to those requirements was suggested and to my mind, nothing less would remedy the breach. It follows that the notice requirements are not excessive; they are a proportionate remedy, being the minimum actions necessary to restore the property to its condition before the breach took place and in doing so achieve the purpose of the notice.
15. The ground (f) appeal fails.

¹ Council Ref: 203734CPL

² Council Ref: 203882PALHE

Appeal B

Ground (f) appeal

16. The appeal property contains a two-storey residential building, with living accommodation arranged over three floor levels. The notice attacks the erection of the building, which includes a single storey rear extension and habitable roof space, along with the use as three self-contained flats.
17. Planning permission was granted to erect a two-storey building at the property to provide two residential units in June 2021.³ By complying with the requirement to demolish the building in its entirety, the property would be restored to its condition before the breach took place. Alternatively, by ceasing the use of the first and second floors as self-contained flats, removing the second-floor kitchen and modifying the dormer and first and second floor layout to accord with the approved drawings, the development would comply with the terms of the planning permission granted for two units. Therefore, the purpose of the notice must be to remedy the breach, as is also evident from the final reason for its issue.
18. Use of the property as more than two flats has ceased since the notice was issued. No details of any scheme of works to alter the first and second floors of the building were supplied. Any scheme which involved deviating materially from the approved drawings would fail to remedy the breach, as the development would not comply with the terms of the planning permission and the purpose of the notice would not be achieved. Moreover, since the notice has the purpose of remedying the breach and in the absence of a ground (a) appeal, there is no scope to vary the requirements to provide for the building to remain in situ other than in accordance with the approved drawings.
19. Consequently, no obvious alternative to the notice requirements has been suggested and to my mind, nothing other than those requirements would remedy the breach. It follows that the notice requirements are not excessive; they are a proportionate remedy, being the minimum actions necessary to restore the property to its condition before the breach took place.
20. The ground (f) appeal fails.

Appeals A and B

Ground (g) appeals

21. The ground of appeal is that the time allowed for complying with the notice requirements is too short.
22. Given the nature and extent of the remedial works, it is highly likely that the tenants will have to vacate the properties. Few details concerning the tenants, the lengths of their tenancies and any notice periods needed to be given were supplied. Even so, the three-month period specified affords little time for tenants to search for and secure suitable alternative living accommodation. In practice, the time available for tenants to do so would be far shorter, as the appellant also must have the remedial works undertaken within the same timescale. Given the pressures on the rented property market generally, there is little assurance that suitable alternative living accommodation could be found within such a limited time. This places the tenants at an increased risk of homelessness.
23. Furthermore, although the remedial works would be relatively modest in scale, not particularly complex and limited in duration, the appellant would need to either undertake the works themselves or else secure the services of suitable contractors to do so. Even if all tenants vacated the properties relatively promptly, with most contractors needing a period of notice before commencing work there is likely to be

³ Council Ref: 212670FUL

little time left for the works to be undertaken. I cannot rely on the Council exercising its power in s173A of the Act to extend the period for compliance, due to the uncertainty that would involve.

24. Given the circumstances, compliance periods of six months would be reasonable in both instances. This would afford the tenants a longer spell in which to seek and secure suitable alternative accommodation and for the remedial works to be carried out. It would also provide the appellant with sufficient time in which to seek planning permission for parts of the works which might otherwise be considered acceptable by the Council. Although somewhat less than the period of nine to twelve months sought by the appellant, the risk of tenants not vacating the properties during their notice period would nevertheless be considerably reduced. On the other hand, longer compliance periods would do little more than perpetuate the breach. Six-month compliance periods would therefore strike an appropriate balance between remedying the breaches as soon as practicable whilst also avoiding, so far as is possible, imposing a disproportionate burden on the appellant and their tenants. There would be no injustice to the Council in varying the notices to extend the periods for compliance accordingly.

25. The ground (g) appeals therefore succeed to this extent.

Appeal C

Ground (c) appeal

26. The ground of appeal is that the matters stated in the notice do not constitute a breach of planning control. The burden is firmly on the appellant to show why their appeal should succeed on this ground, the relevant test of the evidence being on the balance of probability.
27. The appeal property contains a freestanding single storey building, located towards the far end of the rear gardens of the buildings in Appeals A and B (Nos 77 and 77A). The notice alleges the erection of a separate, self-contained dwelling.
28. The operations undertaken to erect the building fall within the definition of development. Planning permission is required for the development of land, having regard to s57(1) of the Act. The definition of a breach of planning control in s171A(1)(a) of the Act includes carrying out development without the required planning permission.
29. The building, which contains two main rooms along with a WC/shower room, is currently vacant. Nevertheless, the Council's evidence shows that on 1 November 2023, shortly after the building was substantially completed, it contained a fitted kitchen which included an oven and hob, various other household electrical appliances were present and the WC/shower room was in situ. The Council's evidence also shows that at the time, the building was occupied residentially under the terms of a tenancy agreement, in which it is described as a one-bedroom flat. The Council's evidence thus points towards the building as having the ability to afford to those who use it the facilities required for day-to-day private domestic existence, this being the distinctive characteristic of a dwelling, at the time of its substantial completion. The appellant provided no firm evidence to suggest that the building was erected other than as a separate, self-contained dwelling.
30. The erection of a separate, self-contained dwelling is not granted planning permission by any Class in any Part of Schedule 2 to Article 3 of the GPDO. Nor has any grant of express planning permission to erect the dwelling been drawn to my attention. Whilst it might be the appellant's future intention to use the building for storage, that has little relevance to the ground (c) appeal as 'permitted development' rights cannot be applied retrospectively.

31. Accordingly, on the balance of probability the matter stated in the notice constitutes a breach of planning control. The appellant has been unable to show otherwise.
32. The ground (c) appeal fails.

Ground (a) appeal

Main Issues

33. The appeal made on ground (a) is misconceived. The terms of the deemed planning application arising from the ground (a) appeal are derived from the matters stated in the enforcement notice as constituting a breach of planning control. The power in s177(1)(a) of the Act to grant planning permission does not extend beyond the whole or part of those matters, or the land to which the notice relates. Use of the building for incidental storage is not part of the alleged breach; it is materially different to the development described in the allegation and thus falls outside the scope of the matters which can be considered in the ground (a) appeal.
34. Therefore, the main issues in this ground of appeal are:
- The effect of the dwelling on the character and appearance of the surrounding area.
 - Whether suitable living conditions would be provided for future occupiers of the dwelling, having regard to internal floor area, outlook, noise and disturbance and provision of private outdoor amenity space.
 - The effect on the living conditions of existing and future occupiers of neighbouring residential property, having regard to noise and disturbance.

Reasons

Character and appearance

35. The property is located in an established suburban residential area, largely made up of two storey dwellings of similar appearance, neatly arranged in short terraces and set back similar distances from the street, occupying rectilinear plots and having ample sized rear gardens. These factors all contribute to the orderly and pleasant suburban residential character and appearance of the environs.
36. The dwelling is of modest proportions compared to the generally more substantial built footprint and scale of residential properties in the vicinity. It occupies a plot which is restrictive in size in the context of the more generously portioned grounds of most dwellings in the locality, the limited space around the built form leaving little opportunity for providing outdoor amenity space or for softening landscaping. Also, the dwelling occupies a substantial portion of the rear garden of No 77, already markedly reduced in size following the erection of No 77A, further eroding the sense of spaciousness compared to other development in the vicinity. This all contributes to the dwelling appearing cramped on its plot and creates a more built-up feel in the environs. Furthermore, the dwelling does not directly address the street, being located behind the frontage buildings and adjacent to residential outbuildings in neighbouring rear gardens. As far as I could see, no other dwellings in the vicinity occupy a similar location.
37. Consequently, the dwelling is entirely at odds with the general pattern of local development and it is viewed as an alien feature, significantly and harmfully eroding the suburban residential visual qualities of the locality and causing unacceptable harm to the character and appearance of the surrounding area. This is in conflict with Policy 7.4D of the Ealing Development Management Plan Development Plan Document (DPD), which requires development in existing built areas to complement their street sequence, building pattern and scale, amongst other things. It is also in conflict with criteria in Policy D3 of the London Plan (LP), which

require new developments to be the most appropriate form and use for the site responding to its context and to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness, including through their layout, scale, appearance and shape, with due regard to street hierarchy, building types, forms and proportions and by providing active frontages.

Living conditions-future occupiers of the dwelling

38. The modest internal floor area provided by the dwelling affords limited room in which to accommodate kitchen facilities including an oven and hob, along with day-to-day household appliances such as a fridge/freezer and a washing machine, as well as basic domestic furniture items such as a double bed, some chairs, a table and drawers, whilst still leaving sufficient space for circulation. As a result, occupiers of the dwelling would have an uncomfortably cramped and congested living space. The Council estimated that the internal floor area of the dwelling is around 46m². This falls significantly below the minimum 50m² gross internal floor area (GIA) required for a new one-bedroom, two-person flat in Table 3.1 to LP Policy D6. The shortfall in GIA when assessed against the minimum space requirement set out in LP Policy D6 supports my misgivings concerning the restrictive size of the dwelling.
39. The dwelling has a single aspect, with two windows either side of a pedestrian entrance door in the main elevation. The rooms have a limited outlook, the window of one facing towards the rear gardens and rear elevations of Nos 77 and 77A while the window serving the other room is directly opposite a tall boundary fence, a short distance away. Also, due to the proximity of the frontage properties, occupiers of the dwelling would probably keep curtains or blinds drawn over the windows at most times for privacy purposes. This is likely to increase the reliance on artificial light sources and would contribute to occupiers of the dwelling experiencing an oppressive and unrelieved sense of enclosure in their living space. Additionally, given the location adjacent to rear gardens, outbuildings and a shared rear access, occupiers of the dwelling are likely to experience significant levels of noise and disturbance from activity at neighbouring properties, as well as comings and goings thereto, at times.
40. With no dedicated private outdoor amenity space, there would be little opportunity to undertake a range of day-to-day household activities normally associated with a dwelling such as informal recreation, cultivating plants and drying washing, or for storing waste/recycling. This would reinforce the sense of a restrictive living environment experienced by occupiers of the dwelling. Also, it does not reflect guidance in the Ealing Planning New Garden Space Supplementary Planning Document, which concerns the qualitative aspects of outdoor amenity space provision, or the DPD at Table 7D.2. The latter typically requires provision of an area equating to 50m² private garden space for a new dwelling, to include the baseline requirement of 5m² private outdoor space for one to two person dwellings derived from the Mayor of London's Housing Supplementary Planning Guidance.
41. For the reasons set out above, unsuitable living conditions would be provided for future occupiers of the dwelling. This conflicts with criteria in LP Policy D6, which require new development to provide comfortable and functional layouts which are fit for purpose, with dwellings having at least the GIA in Table 3.1, avoiding the provision of single aspect dwellings, providing sufficient daylight and sunlight appropriate to the context and maximising the usability of outside amenity space. It conflicts with DPD Policy 3.5F, which requires new development to meet similar minimum space standards. It also conflicts with criteria in LP Policy D3, which require new development to deliver appropriate outlook, privacy and amenity, to help prevent or mitigate the impacts of noise and to achieve indoor and outdoor environments that are comfortable and inviting for people to use. Furthermore, the dwelling conflicts with criterion in DPD Policy 7B, which require new development to achieve a high standard of amenity for users, including by ensuring good levels

of privacy, daylight and sunlight and appropriate levels of site development. Additionally, by not providing sufficient private and communal garden space to meet the requirements of Table 7D.2, the dwelling conflicts with criterion in DPD Policy 7D.

Living conditions-existing and future occupiers of neighbouring residential property

42. Neighbouring properties occupy a largely suburban residential setting. The occupiers of those properties might therefore expect to enjoy reasonably good levels of peace and tranquillity at most times. The dwelling would generate a considerable level of day-to-day activity, cooking smells and artificial lighting, along with a significant number of pedestrian comings and goings, in proximity to the rear elevations and private gardens of neighbouring property. This is likely to lead to the neighbouring occupiers experiencing a significant and appreciable increase in incidences of noise and other disturbance, compared to prior to erection of the dwelling.
43. Consequently, the dwelling would unacceptably erode the living conditions enjoyed by the occupiers of neighbouring residential property. This conflicts with criteria in LP Policy D3, which requires new development to deliver appropriate privacy and to help prevent or mitigate the impacts of noise. It also conflicts with criterion in DPD Policy 7A, which requires new development causing emissions to not erode the amenity of surrounding uses, as well as conflicting with the requirements in DPD Policy 7B for new development to achieve a high standard of amenity for adjacent uses, including by ensuring appropriate levels of site development.

Conclusion-Ground (a) appeal

44. The dwelling harms the character and appearance of the surrounding area, suitable living conditions would not be provided for its future occupiers and there would be harm to the living conditions of existing and future occupiers of neighbouring residential property, in conflict with the Development Plan, taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, I conclude that the ground (a) appeal should not succeed.

Conclusions

45. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice in Appeal A with a variation. I shall uphold the enforcement notice in Appeal B with variations. I shall uphold the enforcement notice in Appeal C and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Stephen Hawkins

INSPECTOR